

Proposed Grounds for Disciplinary Action:
R.C. 3319.31(B)(1) – conduct unbecoming

Licensure/Employment Status:

Brady W. Hineline holds a five-year professional comprehensive high school teaching license issued in 2010. Mr. Hineline currently is not employed by any educational entity in the state of Ohio.

Disciplinary Proceedings:

On October 19, 2011, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Brady W. Hineline of its intent to determine whether to limit, suspend, revoke, or permanently revoke his five-year professional comprehensive high school teaching license issued in 2010 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Mr. Hineline engaging in conduct unbecoming to the teaching profession when he inappropriately intervened in a fight between students on or about December 9, 2010, swore loudly while within the hearing of students on or about March 16, 2010, called a student a "punk", walked towards the student in a threatening manner, and continued to follow the student down two hallways on or about the 2010-2011 school year, and began wearing a bulletproof vest to school on or about December 2010. Mr. Hineline requested a hearing in this matter. A hearing was held on July 26, 2012 and July 27, 2012. Mr. Hineline was present at the hearing and was represented by counsel. The hearing officer recommends that Mr. Hineline's license be revoked and he be ineligible to reapply for any license issued by the State Board of Education until on or after January 1, 2013. The hearing officer's recommendation is based upon Mr. Hineline's misconduct warranting a revocation, but the circumstances and atmosphere in which the misconduct occurred only meriting a brief term of ineligibility to reapply for licensure.

Background materials follow this resolution (Item 8):

8. RESOLUTION TO ACCEPT THE REPORT AND RECOMMENDATION OF THE HEARING OFFICER TO REVOKE THE FIVE-YEAR PROFESSIONAL COMPREHENSIVE HIGH SCHOOL TEACHING LICENSE OF BRADY W. HINELINE

I RECOMMEND that the State Board of Education ADOPT the following Resolution:

WHEREAS Brady W. Hineline holds a five-year professional comprehensive high school teaching license issued in 2010; and

WHEREAS on October 19, 2011, the State Superintendent of Public Instruction, on behalf of the State Board of Education, notified Brady W. Hineline of its intent to determine whether to limit, suspend, revoke, or permanently revoke his five-year professional comprehensive high school teaching license issued in 2010 pursuant to Ohio Revised Code 3319.31(B)(1). The notice was based upon Mr. Hineline engaging in conduct unbecoming to the teaching profession when he inappropriately intervened in a fight between students on or about December 9, 2010, swore loudly while within the hearing of students on or about March 16, 2010, called a student a "punk", walked towards the student in a threatening manner, and continued to follow the student down two hallways on or about the 2010-2011 school year, and began wearing a bulletproof vest to school on or about December 2010; and

WHEREAS Mr. Hineline requested a hearing regarding the State Board's intent; and

WHEREAS a hearing was held on July 26, 2012 and July 27, 2012; and

WHEREAS Mr. Hineline was present at the hearing and was represented by counsel; and

Item 8 continued

WHEREAS the hearing officer recommends that Mr. Hineline's license be revoked and he be ineligible to reapply for any license issued by the State Board of Education until on or after January 1, 2013. The hearing officer's recommendation is based upon Mr. Hineline's misconduct warranting a revocation, but the circumstances and atmosphere in which the misconduct occurred only meriting a brief term of ineligibility to reapply for licensure:
Therefore, Be It

RESOLVED, That the State Board of Education, pursuant to Ohio Revised Code 3319.31(B)(1), hereby **REVOKE**s Brady W. Hineline's five-year professional comprehensive high school teaching license issued in 2010 based upon Mr. Hineline engaging in conduct unbecoming to the teaching profession when he intervened in a fight between students on or about December 9, 2010 and used excessive force and restraint on one of the students, swore loudly while within the hearing of students on or about March 16, 2010, used inappropriate language while disciplining a student during the 2010-2011 school year, and began wearing a bulletproof vest to school on or about December 2010. Further, the State Board, in accordance with Ohio Administrative Code Rule 3301-73-22(A)(2)(a), orders that Brady W. Hineline be ineligible to apply for any license issued by the State Board of Education until on or after January 1, 2013; and, Be It Further

RESOLVED, That the Acting Superintendent of Public Instruction be, and he hereby is, directed to notify Mr. Hineline of this action.

SUMMARY FACT SHEET

Respondent's Name: Brady W. Hineline

Respondent's Year of Birth: 11/23/1972

Certificate and/or License Held or Applied for: Five Year Professional Comprehensive High School Teaching License

Whether Respondent Requested a Hearing: Yes

Whether Respondent Appeared at the Hearing or Submitted His/Her Contentions in Writing: Yes

Hearing Date: 7/26/2012 and 7/27/2012

Offense(s)/Misconduct Committed and Date:

1. Respondent used inappropriate language in the school in which he was employed during a school session in a setting where said language could be heard by both faculty and students (2009-2010 school year).
2. Respondent used inappropriate language in the discipline of a student.
3. Respondent used excessive force and restraint on a student in an effort to quell an in school disturbance involving students.
4. Respondent chose to wear a bulletproof vest during his hours of employment while on the grounds and in the classroom(s) of his employer.

Whether Respondent Fully Disclosed Offense/Misconduct to the State Board: No

Mitigating/Aggravating Factors:

No prior discipline by the licensing entity (3301-73-21 [B][11]).

Respondent was working in a sometimes hostile environment which required particular skills for which he had not been properly trained nor equipped i.e. security (3301-73-21 [B][14]).

Misconduct involved school children and the school community (3301-73-21 [A][2] & [5]).

Misconduct negatively reflects upon the teaching profession (3301-73-21 [A][8])

Multiple incidents of conduct unbecoming a licensed educator (2201-73-21 [B][14])

Recommendations:

The Hearing Officer recommends revocation of Respondent's License. The Hearing Officer further recommends that Respondent be ineligible to reapply for any certification and/or license until on or after January 1, 2013.

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BEFORE THE OHIO STATE BOARD OF EDUCATION

In the Matter of Brady W. Hineline
Respondent

R. Lee Shepherd
Hearing Officer

REPORT AND RECOMMENDATION

Appearance: **For the Department of Education:** Mike DeWine, Ohio Attorney General, and Jennifer Bondurant and LeeAnn Rabe, Assistant Attorney General, Education Section, 30 East Broad Street, 16th Floor, Columbus, Ohio 43215-3428. Telephone (614) 466-7250; Facsimile: (614) 644-7634.

For Respondent: Attorney Jeff Simpson, The Simpson Law Office, Inc., 405 North Huron, Suite 200, Toledo, Ohio 43604. Telephone: (419) 243-7225; Facsimile: (419) 242-0463.

Summary

Respondent, Brady W. Hineline, currently holds a Five Year Professional Comprehensive High School Teaching License. He taught at the Glass City Academy from the fall of 2005 until January 21, 2011. By action of the Glass City Academy Board of Directors (at their January 18, 2011 meeting), the Respondent's contract was terminated effective January 21, 2011 (State's Exhibit 16).

During the second half of the 2009-2010 school year and the first half of the 2010-2011 school year, Respondent was involved in four separate incidents which gave rise to the termination of his employment as well as an investigation into his eligibility to continue as a licensed educator. These incidents are summarized as:

1. the use of inappropriate language during a school session when others (faculty and students) could hear the Respondent.
2. the use of inappropriate language while disciplining a student.
3. using excessive force and restraint on a student in an effort to quell an in school disturbance.

RECOMMENDATION

4. wearing a bullet proof vest during his school employment while in class and on the premises.

By letter of October 19, 2011, the Ohio Department of Education initiated the process to determine whether to limit, suspend, revoke, or permanently revoke the Respondent's teaching license in accordance with Chapter 119 and Title 33 of the Ohio Revised Code.

This matter came on to be heard at Columbus, Ohio on Thursday, July 26 and Friday, July 27, 2012. The Ohio Attorney General's Office appeared as representative for the Ohio Department of Education. Attorney Jeff Simpson appeared as representative for the Respondent, Brady W. Hineline. Sworn testimony was offered and exhibits were admitted. The necessary procedural requirements have been satisfied. Review and resolution by and before the Ohio State Board of Education is now timely and in order.

Findings of Fact

These Findings of Fact are based upon the evidence (testimony and exhibits) as presented by the Ohio Department of Education as represented by the Ohio Attorney General and the Respondent, Brady W. Hineline, as represented by Attorney Jeff Simpson on Thursday, July 26 and Friday, July 27, 2012.

1. Respondent, Brady W. Hineline, holds a Five Year Professional Comprehensive High School Teaching License as issued by the Ohio Department of Education in 2010.

2. On March 16, 2010, Respondent used inappropriate language on the premises of Glass City Academy during a school day while both faculty and students were within earshot. Although the exact phraseology was not submitted into the record, the Respondent admitted to having committed the act of swearing loudly (TR 16); using profanity (TR 286) (as alleged in the Ohio Department of Education letter of intent of October 19, 2011 [allegation (2)(a)] (State's Exhibit 1)).

3. During the first half of the 2010-2011 school year at Glass City Academy, Respondent used inappropriate language while disciplining a student. While removing a student

from his class, Respondent acknowledged having chided the student with the phrase “If you want to act like a punk, you can do it on the street but not in the school.” (TR 19); “If you want to act like a punk or you want to act like a thug, you do in on the street. Don’t bring it in my classroom. Don’t bring it into our school.” (TR 289).

4. On December 9, 2010, Respondent used excessive force and restraint on a student in an effort to quell an in school disturbance. (TR 262-272) (TR 80-83) (TR 100-102).

5. Respondent had been assigned to certain quasi-security duties by his immediate supervisor. (TR 281-284) (TR 194 & 195).

6. Written instructions were posted in Respondent’s classroom advising of proper response(s) to certain situations including dealing with difficult individuals and reacting to an altercation (State’s Exhibit 10) (TR 24 & 25).

7. Following the December holiday break of the 2010-2011 school year, Respondent began wearing a bulletproof vest while employed at Glass City Academy – both during class sessions and while on the school premises. (TR 292-295) (TR 105-107) (TR 135 & 136).

8. On October 19, 2011, the Ohio Department of Education issued a letter of intent to the Respondent by certified mail for which receipt was returned. The letter of intent advised the Respondent that he had engaged in conduct unbecoming a licensed educator in violation of Ohio Revised Code §3319.31(B)(1). (State’s Exhibit 1).

9. On June 8, 2012, the Ohio Department of Education scheduled a hearing of this matter for Thursday, July 26 and Friday, July 27, 2012.

Conclusions of Law

A. All statutory procedural requirements have been met or exceeded and this matter is proper for review and resolution by and before the Ohio State Board of Education.

B. Proof has been presented herein by the Ohio Attorney General as representative for the Ohio Department of Education, sufficient to meet the burden of a preponderance.

C. Ohio Revised Code §3319.31(B) provides:

- (B) For any of the following reasons, the state board of education, in accordance with Chapter 119 and Section 3319.311 of the Revised Code, may refuse to issue a license to an applicant; may suspend, revoke, or limit a license that has been issued to any person and has expired;
 - (1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;

D. Ohio Administrative Code §3301-73-21 provides factors to be considered by the State Board of Education when evaluating whether certain conduct is equivalent to "conduct that is unbecoming to the applicant's or person's position" (3319.31[B]). Those factors include:

- (2) Crimes or misconduct involving school children.
- (5) Crimes or misconduct involving the school community....
- (8) Any other crimes or misconduct that negatively reflect upon the teaching profession.

E. Respondent, Brady W. Hineline, engaged in conduct that was unbecoming to his position on four (4) separate occasions:

- (1) Respondent used inappropriate language in the school in which he was employed during a school session in a setting where said language could be heard by both faculty and students (2009-2010 school year).
- (2) Respondent used inappropriate language in the discipline of a student.
- (3) Respondent used excessive force and restraint on a student in an effort to quell an in school disturbance involving students.
- (4) Respondent chose to wear a bulletproof vest during his hours of employment while on the grounds and in the classroom(s) of his employer.

F. Ohio Administrative Code §3301-73-22(A) provides that the State Board of Education may revoke a license/certificate.

G. Ohio Administrative Code §3301-73-22(A)(2) and (A)(2)(a) provide:

(2) Revocation of a license is a final action. After revoking a license, the state board shall impose one of the conditions described in paragraphs (A)(2) and (A)(2)(b) of this rule.

(a) The state board may establish a minimum period of time before an applicant can apply for a new license. At the conclusion of the specified period, and upon demonstration of compliance with any education requirements, the terms of the state board's order, and the criteria set forth in rule 3301-73-24 of this chapter, the state board may issue a new license to the applicant.

H. The "Licensure Code of Professional Conduct for Ohio Educators" provides that conduct unbecoming the teaching profession includes lapses in professional behavior whether involving students or other members of the school community. Disparaging either a colleague or a student qualifies as an actionable lapse in professional behavior and, therefore, conduct unbecoming the teaching profession. Certainly the donning of a bulletproof vest while teaching (for the purpose of surviving the rest of the school year) qualifies as an actionable lapse in professional behavior.

I. Ohio Administrative Code §3301-73-21(B) authorizes the State Board of Education to consider mitigating and/or aggravating factors as applicable and appropriate in the consideration of the determination of a final action under division (B)(1) of §3319.31 of the Ohio Revised Code (the determination of final action for having engaged in an act or conduct that is unbecoming to the respondent's position). These factors include, but are not limited to, the Respondent has not previously been disciplined by the licensing authority; the Respondent was working in a sometimes hostile environment which required particular skills for which he had not been properly trained nor equipped; the Respondent's misconduct involved school children and the school community; the Respondent committed multiple acts of misconduct; and Respondent's misconduct negatively reflects upon the teaching profession.

Recommendation

Based upon the Findings of Fact and Conclusions of Law contained hereinabove, I recommend that the State Board of Education revoke Respondent, Brady W. Hineline's Five Year Professional Comprehensive High School Teaching License. I further recommend that

Respondent, Brady W. Hineline, be ineligible to reapply for any certification and/or license until on or after January 1, 2013.

Respondent, Brady W. Hineline, engaged in multiple acts of conduct unbecoming to his position as an educator. Therefore, the laws and codes of the State of Ohio as they apply to educators allow for the revocation of his license. Due to the circumstances surrounding his misconduct, the revocation of Respondent's license should not be permanent nor should the period of ineligibility to apply for any "new" license be lengthy.

If the only allegation of misconduct leveled against the Respondent had been the allegation based upon his intervention in a student fight which took place on December 9, 2010, the recommendation herein would have been much different. Respondent had been called upon by the administration and his supervisors to undertake duties beyond the purview of his teaching license. He was assigned duties which should have been the responsibility of individuals trained and licensed in the area of law enforcement. On December 9, 2010, Respondent was attempting to fulfill those non-teaching duties.

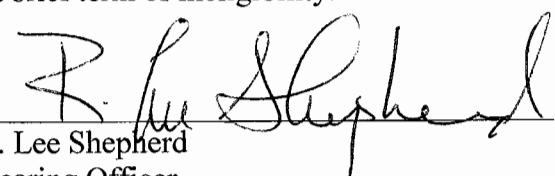
Further, Ohio Revised Code §3319.41 authorizes teachers, within the scope of their employment, to "use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others.....". This is what the Respondent appeared to have been doing while undertaking his non-teaching quasi-security duties on December 9, 2010. It would seem that the Respondent may have exceeded the authority granted him in §3319.41 by using an unreasonable and unnecessary amount of force in quelling the disturbance. However, the circumstances in which the Respondent had been placed (quasi-security and duties beyond his license and training) certainly minimize the level of misconduct – conduct unbecoming involved in the December 9, 2010 incident.

But the evidence established other incidents of misconduct – conduct unbecoming. With each additional incident, the scales tipped further toward revocation. Testimony indicated that

the final incident – the bulletproof vest represented the final straw. After that incident, the Glass City Academy had to act to terminate. Here too the incident of the vest tipped the scales. For the Respondent to have acted in such an unprofessional manner was inexcusable. If the Respondent perceived himself to have been in harms way, he should have resigned.

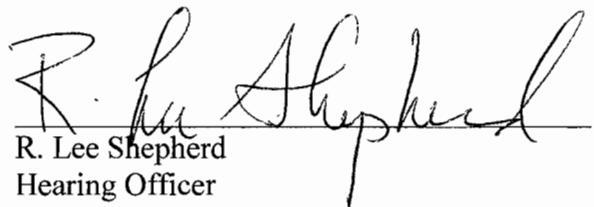
In conclusion, Respondent's misconduct merits revocation but the circumstances and atmosphere in which the misconduct occurred merits a brief term of ineligibility.

September 18, 2012
Date


R. Lee Shepherd
Hearing Officer

CERTIFICATE OF FILING

I hereby certify that the foregoing Report and Recommendation of the Hearing Officer in the Matter of Brady W. Hineline was filed with the Ohio State Board of Education by priority mail by the U.S. Postal Service and by electronic mail this 18th day of September, 2012.



R. Lee Shepherd
Hearing Officer

Shelby, Ohio
September 18, 2012